

RECEIVED FOR FILING
KITSAP COUNTY CLERK

NOV - 7 2002
DAVID W. PETERSON

HONORABLE JUDGE JAY B. ROOF
Hearing Date: November 8, 2002
Hearing Time: 1:30 p.m.

SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KITSAP COUNTY

CITY OF BREMERTON, a municipal corporation,

Case No.: No. 97-2-01749-3

Plaintiff,

DEFENDANTS RESPONSE TO PLAINTIFF
MOTION TO CLARIFY JUDGMENT OF
May 8, 1998

vs.

WILLIAM J. SESKO and NATACHA SESKO,
husband and wife, and their marital community,

Defendants

COMES NOW, the Defendants named above, William J. Sesko and Natacha Sesko, Husband and wife, and their marital community and respectfully requests the court to clarify the judgment entered on May 8, 1998 and not allow the City and its contractors to enter the defendants' property again located at 1701 Pennsylvania Avenue, Bremerton, Washington to crushed and destroy and remove the items from the Seskos' Pennsylvania Avenue. waterfront Property.

STATEMENT OF FACTS.

The Pennsylvania Avenue Property is located in City of Bremerton as listed one of the number one hazardous sites from the State's Department of Ecology, this property combine with the Penn Plaza self storage yard used to be the Bremerton old gas facility and City of Bremerton Dump site. (Exhibit-1 A newspaper clipping)

Property Zoned Business Park and City of Bremerton "Shoreline master program" Page 3-7 clearly stated it is zoned Urban Industrial
It's 1/2 acres about 1/20 of the entire Penn Plaza Storage Yard. (Exhibit -2 location map)

1 June 13, 97 City filed a nuisance action against Sesko without following the
2 proper appeal procedure. (Exhibit 3- Don Pratt 2/11/97 letter)

3 On February 11th 97. The director of Community Development said we have no
4 right of appeal to the Cease and Desist order which was upheld by the planning
5 Commission and must vacate our property in 14 days. His statement totally violated
6 RCW 90.58.180.) (The Shoreline Master Program Administration and Enforcement one
page 7-7 line 1-3.)

7 On May 8, 1998 this court entered a judgment determining that the Defendant's
8 property is a nuisance per se and granted City of Bremerton to a mandatory injunction
9 requiring the abatement of the nuisance on the Property located at 1701 Pennsylvania
Avenue.

10 Sesko appealed the Judgment to the Court of Appeals on June 25th 1998, where
11 the case was consolidated with Arsenal Property on June 13th 1999.

12 On February 25, 2000 Court of appeal published opinion and clearly stated "The
13 orders of injunctive relief do not prevent uses for Business purposes. They only
14 require the removal of Junk on the sites."

15 Sesko followed the Shoreline Master Program Shoreline use/Activity matrix table keep
16 the items that allows on the property. Which are: Archeological and historic resources,
17 Signs: on premises. Marina, Recreational, Residential Roads, Railways and Bridges,
18 Utilities, Water Access and Moorage: Boat launch Ramps, Marine Railways, Mooring
Buoys, piers & Docks, Recreational floats. Bulkheads, Seawalls, Clearing, Grading &
Drainage, last and lest Revetments are also permitted.

19 (Attached Exhibit -4-1 including description of the zone, Page 3-13 map of the
20 location. page "3-19 to 3-22" SMP Activity tale).

21 Under Bremerton Municipal Code Chapter 21.02 Zoning Code Business Park uses
22 allowed heating, plumbing, A/C Equipment & Services, Electrical Supplies and
23 Services, Paint, Glass, Interior Decoration (Carpet, Drapes), Electrical & electronics Products
24 Mfg., Mini-warehousing (small-unit storage). Research and Development and Testing Services,
Professional /Scientific Instrument Manufactures Textile Products Manufactures. And Recycling
Collection Station. (Attached 5.-Bremerton Municipal Code 21.02)

25 Sesko's repeatedly request City of Bremerton to give clear guidance and

1 corporation. The result as City Council stated the whole case is in the court, it is not a
2 matter for the City Council. Another words they are not interested in working anything
3 with us.(Attached 6. City Council Coral Arends's letter)

4 On June 19th 2001 The City of Bremerton declared all our vehicles as junk
5 vehicles including one of our customer Darrell Hatta his ten vehicles, we suggested he
6 park them on property that we were renting from Paul McConkey (Penn Plaza storage
7 yard) on Thompson Drive around early 1985 (Attached 7-Letter from Mr. Darrell
8 Hatta.)

9 On September 21,2001 letter Ms. Jane Koler stated City of Bremerton hired
10 Parametrix to draft the contract for the abatement action. And the estimate the abatement
11 action on Pennsylvania property will cost between \$115,000 to \$160,000.
12 In stead of working with Sesko to defined what is junk what is not junk, City refused to
13 talk with Sesko and sold Sesko's all the business products on both pieces properties for
14 only \$45,000 to Buckley Recycling Inc and accepted the Buckley Recycling \$158,000
15 job bid for \$158,000. (Jane Koler October 26, 2001 letter.).

16 The list of the Inventory in Sesko Pennsylvania Avenue that City of
17 Bremerton conducted on 29 May 2001 was incorrect. (Exhibit-8)Pennsylvania
18 Avenue property is very small less than ½ acres pieces land half of them in the strip with
19 45 degree down to the water can not park more than eight vehicles on the upper land.
20 The list of Cars, Minivans, SUV's, Pickups. Heavy Equipment and other Equipment/items
21 are total sixty five items. Are located on Thompson Drive own by Paul McConkey's
22 (PennPlaza storage) his tenants. City can not defined which items belong to Sesko which
23 items are not. They just list everything as Sesko's inventory and sold to Buckley Recycle.

24 None of the order listed on May 18, 1998 ordered the City of Bremerton to sell
25 Sesko's property that stored in Pennsylvania Avenue, the court only issue the City the
authorization of necessary permits to remove it.

December 3rd 2001, Sesko filed the appeal on November 2, 2001, November 16,
2001, and November 30, 2001 orders to the court of appeal.

Letter dated on December 6, 2001 letter Ms Janet Lunceford stated that she is aware the appeal and will still enter the Arsenal Property to commence the abatement.

On December 17, 2001 City commencing the abatement, they never finished the cleaning process left all the debris of steel metal, buckets of oil, grease on the open ground, plastic fiber, broken glasses, partial contaminated air conditioners parts all over the yard, also crushed my storage cabin left all the paints in the front of dance hall.

On January 23rd, 2002 the contractor entered the Pennsylvania Avenue property They crushed our modular office building, one bus, hauled away our antique truck, hydraulic picker. Crushed some of the concrete floats, cut up our logs and hauled it away, the contract said they have the permission from Ms. Lunceford to haul all the steel, iron, aluminum, brass material to dump inside our Arsenal way property for later delivery, they dumped two more loads on January 30th, 2002 and hauled it away two weeks later. (Attached Photograph -Contractor action caught on photo.)

Again On May 18, 1998 Judgment, Court did not ordered the City of Bremerton to allowed the contractor to crush or destroy any of Sesko's property. During the courses of abatement Sesko did moved three items to from Pennsylvania Avenue to Penn Plaza storage yard to prevent the contractors to crushed it.

After the City caused Paul McConkey to evict us from his property we only moved back a few items that we are using it or refirbishing. 10x10 with mounted crane 50's, International single axle cabover, no bed 60's and GMC single axle cargo 70's for business use, it is allowed to be used in the business zone.

(Attached -pictures of items City listed as our inventory needs to be removed belong to the Penn Plaza self storage yard other tenant, is allowed to stay after Paul McConkey evict the Seskos from the Penn Plaza Thompson Drive)

On February 8th, 2002, City of Bremerton posted a Cease and Desist Order on Paul & Margaret McConkey property located at end of the Thompson Avenue. (Attached the cease and desist order)

We filed an appeal to City of Bremerton request justification. On March 1,2002, James Swanson sign his name for Chris Hugo, stated that City of Bremerton is refund the \$132 appeal fee, and our lease of the property will terminate on April 1, 2002, and the

1 legal owner does not support the appeal. Sesko's appeal denied because we are neither
2 property owner nor lessor.

3 (Attached the letter from Mr. James Swanson.)

4 All the tenants that owned the items on the property list can keep their boat, truck
5 machinery and everything else inside the Penn Plaza storage yard. but Sesko's, Sesko is
6 not allow to keep any object in his own

7 On February 7 2002, The Court of Appeal granted the appeal of the November 2,
8 16 and 30 order. The City of Bremerton called the contractor off the Pennsylvania
9 Avenue property few days later.

10 Argument

11 Sesko have never refused to clean up their property. After Court of Appeal order, Sesko
12 get rid of all the items that he believe is junk. Only keep the items that for business use
13 under the Business Park and Urban Industrial Zone.

14 Majority of the products are belong to other tenants whom are Paul McConkey's client.
15 May 18, 1998 judgement did not order City to sell or crush our property. City go out of
16 your order crushed our office, took our logs, antique car even left all the problem behind
17 and not taking care of it.

18 We only move back three items that City did not destroy the first time, all the rest items
19 that City claim we brought it back was also incorrect.

20 Conclusion

21 . We did not violate any of the zoning law nor violate the court of appeal order.
22 The items we have in the property is not junk they all fit into the Zoning Code. We stored
23 over forty vehicles in Gorst and 100 plus in Belfare, we only kept items to use to develop
24 new type products or to clean up the contaminated soil at Pennsylvania Avenue.
25